IN THE HIGH COURT OF JUDICATURE AT BOMBAY
Appellate Side
PIL No.26 of 2003

Mohammed Ali Kudubuddin Shaikh .. Petitioner
v/s.
The State of Maharashtra & ors. .. Respondents

Mr.Rajeev Matkar i/by Mr.B.L.Sagar Killarikar for petitioner.

Mr.P.M.Patil, AGP for respondents.

CORAM : H.L. GOKHALE &
V.M. KANADE, JJ.

DATED : 11th January 2007

P.C. :

1. Heard the learned Counsel for the parties.

2. This Petition makes a submission that it is the responsibility of the State to see to it that the benefit of reservation in the reserved constituency ought to go to the genuine reserved category candidates. The State has passed the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes, (Vimukt Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short "the said Act"). Under the said Act there is a mechanism to get a caste certificate scrutinised. Section 6(2) of the said Act provided that any

person desirous of availing of the benefits of such a reserved status may make an application well in time to the concerned Scrutiny Committee for verification. The grievance is that such verification is not obtained and, therefore, persons not belonging to the particular categories contest the elections.

3. Mr.Patil, learned AGP, has brought to our notice the amendment which the State Government has brought about to this Act and particularly Section 9AA which has been introduced therein. This amendment has come into force from 19th August 2006. This Section 9AA provides that when any candidate files a nomination paper for a reserved seat, he shall be required to submit along with the nomination paper a caste certificate and the validity certificate issued by the Scrutiny Committee.

4. Mr.Patil very fairly pointed out that although this provision came into force, the representations are made to the State Government that there are candidates who have made such applications to the Scrutiny Committee and their applications are pending determination. It was submitted by them that they should not be made to

suffer. Hence, appropriate amendments were made to Section 5B of the Mumbai Municipal Corporation Act, Section 5B of the Mumbai Provincial Municipal Corporations Act, 1949, Section 9AA of the City of Nagpur Corporation Act, 1948 and Section 9A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. All these amendments provided that if a candidate while filing nomination produces a true copy of the application to the Scrutiny Committee and gives an undertaking that he will obtain a validity certificate within three months, he will be permitted to contest the election in the absence of the validity certificate. There is, however, a proviso to this provision that in the event the candidate fails to obtain this certificate from the Scrutiny Committee within three months from the date of his election, his election shall be deemed to have been terminated retrospectively and the person concerned shall be disqualified for being a Councillor.

5. Mr.Matkar fairly accepts that these amendments satisfy the question which is raised in the Petition.

6. The Petition is, therefore, not being pressed and the same stands disposed of as not pressed.

(H.L. GOKHALE, J.)

(V.M. KANADE, J.)